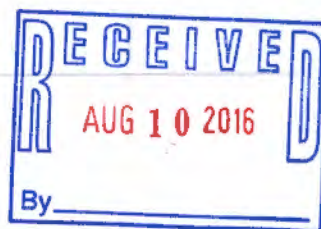


Lewis, Judith

From: Levine, Scott on behalf of OIG FOIA
Sent: Wednesday, August 10, 2016 11:36 AM
To: FOIA HQ
Subject: FW: FOIA request

For assignment to OIG.

From: Laura Dumais [mailto:ldumais@peer.org]
Sent: Wednesday, August 10, 2016 11:32 AM
To: OIG FOIA <OIG_FOIA@epa.gov>
Subject: FOIA request



Good morning,

It has come to my organization's attention that the EPA IG recently completing an investigation of allegations of serious problems with EPA Region IV's lead enforcement program. Thus, my organization seeks **a copy of the report (including exhibits) for case #OI-AT-2015-CAC-0031**. The report is dated April 1, 2015, and the Case Closing Report is dated June 21, 2016.

We greatly appreciate your efforts in providing this information, which will contribute to the public's understanding of the important issue of EPA's oversight of lead laws critical to protect American citizens, particularly children and pregnant women. For any documents or portions of documents that you claim specific FOIA exemption(s), please provide an index itemizing and describing the documents or portions of documents withheld. Pursuant to the holding of *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974), the index should provide a detailed justification for claiming a particular exemption explaining why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a) (4)(A)). Disclosure of the above requested information is in the public interest because disclosure would contribute significantly to public understanding of whether serious problems exist within Region IV's lead enforcement program. This is not information to which the public is otherwise privy. Disclosure is in no way connected with any commercial interest of the requestor. PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

In accordance with 40 C.F.R. § 2.104(e), we request **expedited processing**. The following statement, which I certify is true to the best of my knowledge and belief, supports our request for expedited processing.

Expedited processing is appropriate where "the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual." 40 C.F.R. § 2.104(e)(1)(i). Our understanding of the report is that it has to do with serious allegations that EPA Region IV failed to enforce what is known as the Lead Renovation, Repair, and Painting Rule ("RRP Rule"), 40 C.F.R. § 745, promulgated pursuant to the Toxic Substances Control Act ("TSCA") in one or more of the following manners: conducting

inspections without proper credentials, failing to conduct adequately detailed inspections, failing to collect documentation from regulated entities, destroying records, and otherwise grossly mismanaging the program.

If in fact the report confirmed such problems, it is vital that the public be informed immediately. The RRP Rule protects the public from lead-based paint hazards associated with renovation, repair and painting activities, which can create hazardous lead dust when surfaces with lead paint are disturbed. As the recent water crisis in Flint, Michigan highlights, lead exposure is a serious public health and safety issue, particularly to fetuses and young children, whose cognitive and behavioral development will be impaired by exposure to lead. Exposure to lead can seriously harm a child's health by reducing brain volume, lowering IQ, decreasing ability to pay attention, and causing hearing & speech problems. If RRP Rule violations went unenforced, the public has the right to know.

Expedited processing is also appropriate where there is "An urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public." 40 C.F.R. § 2.104(e)(1)(ii). Here, there is such an urgency because of the health implications of lead exposure as explained above. PEER is an entity "primarily engaged in disseminating information to the public," because information dissemination is one of the organization's main professional activities. PEER is a watchdog group primarily concerned with the dissemination of information about the activities of federal government agencies. PEER's legal staff has expertise in dealing with issues of concern related to government employees and to the NPS specifically. PEER intends to carefully review the materials provided through this FOIA request and provide both a summary of our findings, as well as some or all of the responsive documents, to the general public through the following channels, through which PEER generates an average of 1.5 mainstream news articles per day:

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter which has a circulation of approximately 20,000, including 1,500 environmental journalists.

In *Judicial Watch, Inc. v. Rossotti*, an agency argued that a request had failed to state an intent to disseminate - and a method for disseminating - the information requested, even though the requestor's letter explained that the organization's mission was to obtain information under the FOIA and listed nine ways in which it regularly communicated collection information to the public, including through press releases, web page postings, and a newsletter. The Court emphatically rejected the agency's argument, finding that the requestor had "explained, in detailed and non-conclusory terms--again, all that FOIA requires--exactly how and to whom it will disseminate the information it receives." 326 F. 3d 1309, 1315 (D.C. Cir. 2003). Similarly, PEER has explained in detailed and non-conclusory terms exactly how and to whom we will disseminate the information we obtain from the request. We would be happy to answer any additional questions you may have regarding our specific intent to disseminate information to the general public.

I appreciate in advance your prompt attention to this very important matter. I stand ready to answer any questions you may have in order to further expedite the processing of this request.

Laura Dumais, Staff Counsel
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Silver Spring, MD 20910
Direct: (202) 265-4189 / PEER: (202) 265-7337
www.peer.org

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